

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 SS-15 SP-02 NSC-05 L-03 EB-07 COME-00

TRSE-00 CIAE-00 INR-07 NSAE-00 H-02 STR-04 /058 W

----- 010108

R 201621Z OCT 76

FM AMEMBASSY PARIS

TO SECSTATE WASHDC 6295

INFO AMCONSUL BORDEAUX

AMCONSUL LYON

AMCONSUL MARSEILLE

AMCONSUL NICE

AMCONSUL STRASBOURG

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E.O. 11652: N/A

TAGS: EFIN, FR

SUBJ: POSSIBLE CHANGE IN FRENCH TAX CODE

REFS: A. PARIS 30811; B. STATE 258908 (NOTAL)

1. DCM AND ECON MINISTER CALLED ON PONCELET, SECRETARY OF STATE FOR FINANCE (BUDGET), ON OCTOBER 20, AND INFORMED HIM USG WILLING SET UP NEGOTIATIONS FOR MODIFICATION OF PRESENT TAX TREATY AS SOON AS POSSIBLE WITH RESPECT TO THREE ISSUES: (A) PROSPECTIVE REPEAL OF ARTICLE 164 AND NEED TO MODIFY DOUBLE TAX PROVISIONS TO PROVIDE ADEQUATE PROTECTION; (B) QUOTE AVOIR FISCAL UNQUOTE ISSUE; AND (C) SHIPPING ISSUE.

2. PONCELET WAS ACCOMPANIED BY HIS CHARGE DE MISSION, MICHEL LAINE. HE AGREED THAT GOF READY TO START SUCH NEGOTIATIONS PROMPTLY AND WOULD EXPECT THAT THEY COULD BE COMPLETED WELL BEFORE DEADLINE FOR FILING TAX DECLARATIONS IN 1978 FOR 1977 INCOME UNDER NEW LAW. HE AGREED THAT THE RENEGOTIATED TAX TREATY SHOULD BE EFFECTIVE RETROACTIVELY TO COVER 1977 INCOME. HE AND

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LAINE ALSO AGREED THAT AVOIR FISCAL ISSUE SHOULD BE

NEGOTIATED, AND WHILE NEITHER OF THEM WAS AWARE OF THE THIRD TREATY ISSUE, INVOLVING SHIPPING, THEY SAID IF THIS WAS SIMPLY A CORRECTION WHICH BOTH SIDES WANTED, THEY WOULD OF COURSE AGREE TO ITS INCLUSION TOO.

3. DESPITE SEVERAL ATTEMPTS TO DESCRIBE THE PSYCHOLOGICALLY AND POSSIBLY POLITICALLY ADVERSE IMPLICATIONS OF GOING FORWARD WITH REPEAL OF ARTICLE 164 PRIOR TO RENEGOTIATION OF TAX TREATY, WE MADE NO PERCEPTIBLE DENT IN PONCELET'S APPARENT DETERMINATION TO PURSUE PASSAGE OF THE PROPOSED LEGISLATION, INCLUDING THE REPEAL OF ARTICLE 164. IN FACT, HE INDICATED HE WOULD INCORPORATE IN HIS PRESENTATION TO THE NATIONAL ASSEMBLY A STATEMENT THAT GOF-USG DISCUSSIONS OF RENEGOTIATION OF TAX TREATY HAVE ALREADY BEGUN, AS EVIDENCE THAT BOTH GOVERNMENTS ARE IN AGREEMENT THAT THIS TECHNICAL PROBLEM SHOULD BE SOLVED PROMPTLY. HE IN EFFECT REJECTED OUR SUGGESTION THAT REPEAL OF ARTICLE 164 SHOULD BE DEFERRED BY FRANCE AT LEAST UNTIL JANUARY 1, 1978, BY ASSERTING THAT RENEGOTIATION OF TREATY SHOULD CERTAINLY BE COMPLETED BEFORE THEN, SO EFFECTIVE AVOIDANCE OF DOUBLE TAXATION -- AN OBJECTIVE WHICH WE BOTH DESIRE -- COULD BE ACCOMPLISHED. HE INDICATED THAT, ONCE THE LAW IS PASSED, ITS ENTRY INTO FORCE COULD NOT BE SUSPENDED, BUT IMPLIED BY WINKS, SMILES, AND SHRUGS THAT SHOULD THERE BE A DELAY IN THE COMPLETION OF THE NEGOTIATIONS, THIS COULD BE TAKEN CARE OF.

4. PONCELET GAVE ABSOLUTELY NO EVIDENCE OF A SPIRIT OF VENGEFULNESS AS A RESULT OF THE HARD TIME THE SENATORS GAVE HIM ON THE SENATE FLOOR LAST WEEK. WE ASSERTED THAT BOTH THE EMBASSY AND THE VARIOUS PRIVATE AMERICAN GROUPS WHICH IN RECENT WEEKS HAVE BEEN EXPRESSING THEIR CONCERN ABOUT THE PROPOSED REPEAL OF ARTICLE 164, HAVE CONSISTENTLY VIEWED THIS AS A TECHNICAL PROBLEM TO WHICH A TECHNICAL SOLUTION WAS READILY AVAILABLE; WHAT WE WANTED TO AVOID WAS THE UNFAIR LEVYING OF SUCH A TAX BEFORE TREATY PROTECTION WAS AVAILABLE. WE ALSO CERTAINLY WANTED TO AVOID A CONFRONTATION WITH THE GOF, OF THE SORT THAT OCCURRED IN THE SENATE LAST WEEK.

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PONCELET AGREED ENTIRELY, SAYING WE MUST AVOID LETTING THIS BECOME A POLITICAL ISSUE WHEN A TECHNICAL SOLUTION IS AVAILABLE.

5. WE STRESSED THAT WHILE OUR PRIMARY INTEREST WAS TO GET ON WITH THE TECHNICAL PROBLEM OF RECONCILING OUR PRESENT TAX TREATY WITH PROPOSED LEGISLATION, WE ALSO FELT AN OBLIGATION TO REPORT TO THE GOF OUR AWARENESS OF

THE GREAT CONCERN FELT IN THE AMERICAN COMMUNITY THAT,
SHOULD THE LAW BE ENACTED BEFORE THE TREATY WAS
RENEGOTIATED, CORPORATE DECISIONS AS TO ESTABLISHMENT OF
HEADQUARTERS COMPANIES IN FRANCE AND AS TO CAPITAL
INVESTMENTS IN FRANCE, MIGHT BE ADVERSELY AFFECTED AND

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AMERICANS MIGHT EVEN START LEAVING WITHOUT WAITING TO
FIND OUT IF THE TREATY COULD BE SUCCESSFULLY RENEGOTI-
ATED. PONCELET NOTED WHAT WE HAD SAID, BUT MADE NO
RESPONSE.

6. WE ALSO INFORMED PONCELET THAT AS A MATTER OF COURSE
WE WOULD KEEP THE QUAI D'ORSAY INFORMED OF OUR
CONVERSATION WITH HIM RELATING TO THIS PROSPECTIVE
RENEGOTIATION OF OUR TAX TREATY, AND HE ACKNOWLEDGED
THAT THIS WAS THE THING TO DO AND HE WOULD BE PASSING
THE WORD ON TO THE QUAI, TOO. WE ALSO SAID WE PROPOSED
TO INFORM OUR AMERICAN COMPATRIOTS OF THE GENERAL THRUST
OF OUR DISCUSSION, AND HE SAID THIS WOULD BE A GOOD IDEA

AND THAT WE SHOULD COUNSEL CALMNESS AND EXPLAIN THAT THERE WAS NO NEED FOR PANIC.

7. IN COURSE OF OUR CONVERSATION WE MENTIONED PONCELET'S COMMENT IN LAST WEEK'S SENATE DEBATE THAT GOF HAD LONG SINCE ALERTED USG TO FRENCH INTENTION TO MODIFY OR DELETE ARTICLE 164. WE SAID WE HAD SEARCHED OUR EMBASSY LIMITED OFFICIAL USE

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FILES AND MEMORIES AND COULD FIND NO SIGN OF ANY SUCH FRENCH NOTIFICATION. PONCELET QUICKLY RESPONDED THAT THERE HAD NEVER BEEN ANY FORMAL REQUEST, BUT DURING NEGOTIATIONS OR SHORTLY THEREAFTER IN 1967 THE FRENCH REP HAD INFORMALLY MENTIONED TO U.S. NEGOTIATORS THE POSSIBILITY THAT ARTICLE 164 MIGHT BE CHANGED OR REPEALED.

8. COMMENT: WHILE PONCELET SEEMED ADAMANT, WE THINK IT MIGHT BE DESIRABLE TO PURSUE FURTHER THE QUESTION OF TIMING, AS BETWEEN THE PASSAGE OF THE LAW AND THE RENEGOTIATION OF THE TREATY. WASHINGTON COMMENTS REQUESTED. RUSH

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